IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIRST DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 19935 of 2003

Between:

A.P.Paper Mills Ltd., Swapnalok Complex., S.D.Road.,
Secunderabad, rep.by its Company Secretary.

..... PETITIONER

AND

1 Government of Andhra Pradesh., Irrigation and C.A.D.(PW : QC & IWS /COD) Dept., rep.by its Principal Secretary to Government., Secretariat., Hyderabad.
2 Executive Engineer., Godavari Head Works Division., Irrigation Circle., Dowlaishwaram.,East Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court be pleased to issue a Writ of Mandamus or any other appropriate Writ, Order or Orders, Direction or Directions declaring the Proceedings of the 2nd respondent dated 29-08-2003 bearing Letter MC3/F.17/WR/No.2108 as illegal, unconstitutional and violative of principles of natural justice and to issue a consequential direction to the 2nd respondent to act in accordance with law

Counsel for the Petitioner:MR.V.SRINIVAS

Counsel for the Respondents: GP FOR IRRIGATION & COMM AREA DEV.

The Court made the following :

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ORDER:

Heard both the learned Counsel and at their request the main Writ Petition itself is taken up for disposal at the interlocutory stage.

The petitioner herein, which is a paper mill, filed this Writ Petition, inter alia, seeking to challenge the impugned demand notice dated 29-08-2003, whereunder the petitioner is called upon to make the payment of Rs.180.71 lakhs.

The case of the petitioner is that before issuance of impugned demand notice there is absolutely neither any enquiry was conducted nor any notice was given. Therefore, the entire action of the respondents is not in the teeth of the basic principles of the natural justice. Hence, the Writ Petition.

The learned Government Pleader for Irrigation, appearing on behalf of the respondents, had filed a counter denying the entire allegations and also stated that it is only after the verification by the Department, such amount has been found to be due from the petitioner.

Having considered the submissions made and also on perusal of the material, especially the impugned order, no where it says that any prior notice was given or any enquiry was conducted in the presence of the petitioner before any such amount was arrived at. Even in the counter-affidavit, filed by the respondents, there is no averment to the effect that the petitioner was given any notice or opportunity before such demand is made. It is now well established that any action contrary to the basic principles of natural justice is totally void. It is also now well established that before making any demand there has to be an assessment, which has to be followed by an enquiry that too after notice to the party concerned and also in his presence by providing proper opportunity. Since there is no such opportunity is given, the impugned order is totally vitiated and liable to be set aside.

The Writ Petition is, accordingly, allowed. The impugned proceedings dated 29-08-2003 are set aside. However, it shall be open for the respondents herein to make a fresh assessment and pass orders, after giving notice and opportunity to the petitioner, after conducting a proper enquiry and by taking into consideration all the objections raised by the petitioner. No costs.

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B.PRAKASH RAO, J.

Dated 21-07-2004.

Note: Issue C.C. by 26-07-2004.

B/O

SKMR

To

1 The Principal Secretary to Government, Government of Andhra Pradesh., Irrigation and C.A.D.(PW : QC & IWS/COD) Dept., Secretariat., Hyderabad.
2 Executive Engineer., Godavari Head Works Division., Irrigation Circle., Dowlaishwaram.,East Godavari District.

3. 2CCs to GP FOR IRRIGATION & COMM AREA DEV, High Court Buildings, Hyderabad, (OUT).

4. 2CD copies.